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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,677	03/30/2000	Stephan Meyers	4925-39	8738

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Michael C Stuart  
Cohen Pontani Lieberman & Pavane  
551 Fifth Avenue  
Suite 1210  
New York, NY 10176

EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No. 09/538,677		Applicant(s) MEYERS, STEPHAN	
Examiner Beth Van Doren		Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,8</u> . | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claim 1-7 are pending.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the headphone and the media player referenced in claims 6 and 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-3 are rejected under 35 U.S.C. 102(a) as being anticipated by Thomson (WO 99/35830).

5. As per claim 1, Thomson teaches a portable rating apparatus for rating media content, comprising:

a user-manipulated control dedicated for generating a signal indicating a rating of media content, the rating corresponding to one of a plurality of predefined categories of preferences (See Figure 2A and 2B which disclose ratings for media content. See also page 3, lines 24-25, page 5, lines 10-25, page 6, lines 2-17, which discuss a user-manipulated control that sends a

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signal to a processor containing rating information. Predefined categories of preferences are shown by the examples “I Loved” v. “I Hated”, ratings 1-5, and letters “A”-“D”);

a processor, operatively connected to said user-manipulable control, for receiving the signal from said user-manipulable control and for associating the rating with the media content (See page 5, lines 26-30, and page 6, lines 4-5, and page 10, lines 26-29, and Figure 4, which discloses a processor that interacts with the user-manipulable control and receives the rating information from said control); and

a memory device, operatively connected to said processor, for storing the rating associated with the media content (See page 6, lines 21-25, and figure 4, which disclose a memory device that is connected with the processor and stores rating information).

Furthermore, see figure 3, which discloses a flow chart in which elements 300-330 outline the limitations above.

6. As per claim 2, Thomson teaches a device wherein said memory device further stores the media content and said processor receives the signal from said user-manipulable control as said processor plays the media content stored in said memory device (See page 3, lines 21-23, page 8, lines 8-11 and 20-27, which discloses a memory device that stores media content. See page 4, lines 25-30, page 5, lines 1-15 and 26-29, and page 10, lines 17-19, which disclose a processor that enacts the media content stored in the memory device based on signals received from the user-manipulable control).

7. As per claim 3, Thomson teaches a device wherein the user-manipulable control includes a switch having a plurality of depressible buttons, each of said plurality of depressible buttons corresponding to one of said predefined categories of preferences (See page 6, lines 12-20, which

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discusses pressing keys and entering rating information associated with predetermined categories. See also figure 4 and page 5, lines 10-23, which describe a control unit (450 R) with pressable buttons that can be used to select ratings that correspond with predefined categories).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomson (WO 99/35830) in view of Gordon et al. (U.S. 6,208,335).

10. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomson (WO 99/35830) in view of Maruoka (WO 83/03181).

11. As per claim 4, Thomson discloses a device wherein said user-manipulable control includes depressable buttons, each of said buttons corresponding to one of said plurality of predefined categories of preferences (See page 6, lines 12-20, which discusses pressing keys and entering rating information associated with predetermined categories. See also figure 4 and page 5, lines 10-23, which describe a control unit (450 R) with pressable buttons that can be used to select ratings that correspond with predefined categories). However, Thomson does not expressly disclose that said user-manipulable control includes a multi-position switch movable among different positions, each of said positions corresponding to one of said plurality of predefined categories of preferences.

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Gorden et al. discloses a user-manipulable control includes a multi-position switch movable among different positions, each of said positions corresponding to one of said plurality of predefined categories of preferences (See column 2, lines 28-31, and column 6, lines 39-49, which discloses a joystick associated with the remote control and used, with its multi-position switch, to select predefined regions).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a multi-position switch in the user-manipulabe control device because said switch would increase the ease of use of the control device for the user. A multi-position switch allows a user to more easily and more rapidly navigate through and input rating information (See Gorden et al., column 2, lines 13-17). Multi-position switches are old and well known to remote controls.

12. As per claim 5, Thomson discloses a device wherein said user-manipulable control includes depressable buttons (See page 6, lines 12-20, which discusses pressing keys on the control to enter rating information. See also figure 4 and page 5, lines 10-23, which describe a control unit (450 R) with pressable buttons that can be used to select ratings). However, Thomson does not expressly disclose that said user-manipulable control includes a multi-position switch with a pivotable lever.

Gorden et al. teaches a device wherein the multi-position switch includes a pivotable lever (See column 2, lines 28-31, and column 6, lines 39-49, which discloses a joystick associated with the remote control. The multi-position joystick has a pivotable lever).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a multi-position switch with a pivotable lever in the user-manipulabe control device

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because said switch with a pivotable lever would increase the ease of use of the control device for the user. A multi-position switch allows a user to more easily and more rapidly navigate through and input rating information (See Gorden et al., column 2, lines 13-17). Multi-position switches with pivotable levers are old and well known to remote controls.

13. As per claim 6, Thomson teaches a device with a user-manipulable control and wherein the processor and the memory device are attachable to a media player (See figure 4, which discloses a user-manipulable control and a processor and the memory device attached to the media player). However, Thomson does not expressly teach that the user-manipulable control is attachable to a portion of a headphone.

Maruoka teaches a device wherein the user-manipulable control is attachable to a portion of a headphone (See figures 1, 2, and 4 and abstract, which discloses a control unit attachable to a headphone).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate headphones into the control device because the headphones would increase the user friendliness of the apparatus by offering user privacy while rating media content.

14. As per claim 7, Thomson teaches a device with a user-manipulable control (See also page 3, lines 24-25, page 5, lines 10-25, page 6, lines 2-17, which discuss a user-manipulated control that sends a signal to a processor containing rating information). However, Thomson does not expressly disclose this device attachable to a portion of a headphone wherein said portion of a headphone includes a headphone cord.

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Maruoka teaches a device attachable to a portion of a headphone wherein said portion of a headphone includes a headphone cord (See figures 1, 2, and 4 and abstract, which discloses a control unit attachable to a headphone and headphone cord).

It would have been obvious to one of ordinary skill in the art at the time of the invention make the user-manipulatable device attachable to a portion of a headphone wherein said portion of a headphone includes a headphone cord because doing so would increase the ease of use of the device by offering better quality sound. Using a wire over a signal decreases the chance of the signal being interrupted.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lansang (U.S. 5,794,127) teaches a wireless headphone remote control device that includes buttons for manipulating a remote media device.

Dunn (U.S. 5,945,987) discloses an interactive media network that allows a user to review a trailer or clip of media content and also allows a user to make selections by depressing icon buttons.

Buehl (U.S. 5,912,696) allows a user to rate media content and select attributes that set predetermined categories to flag and not allow that media to be played in the future.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

*kvd*

bvd

June 28, 2002

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600